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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/487,274	01/19/2000	Kristinn R. Rzepkowski	104425	2964
7590	01/26/2005		EXAMINER	
Oliff & Berridge PLC P O Box 19928 Alexandria, VA 22320			BAUTISTA, XIOMARA L	
			ART UNIT	PAPER NUMBER
			2179	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application N</b>	<b>Applicant(s)</b>
	09/487,274	RZEPKOWSKI ET AL.
	<b>Examiner</b> X L Bautista	<b>Art Unit</b> 2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 12 June 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-39 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-39 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date .

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed June 12, 2003 have been fully considered but they are not persuasive.

A. Applicant argues with respect to claims 1 and 17 (page 12, lines 6-15), "Barrett does not teach or suggest an image capture control system including a controller that provides control parameters, and a graphical user interface including a preview pane portion that visually indicates at least one feature of a resulting captured image, wherein the preview pane portion visually indicates the feature without the image capture device capturing the captured image..."

In response, Barrett discloses an image capture control system (col. 3, lines 67-68) having a controller that provides control parameters (col. 4, lines 1-9); and a graphical user interface including a preview pane portion (fig. 12) that visually indicates at least one feature of a resulting captured image without the image capture device capturing the image (col. 8, lines 18-29).

B. Applicant argues with respect to claim 33 (page 12, lines 16-19), "Barrett does not teach or suggest a method for displaying visual cues indicating capture parameters for a captured image including displaying a preview pane, and displaying within the

preview pane, without the image capture device capturing the captured image, an image quality profile mimic..."

In response, Barrett illustrates in fig. 12 a preview window (print window) a print image indicating the size and orientation of an original image based on provided parameters (prescan profile mimic).

C. Applicant argues with respect to claims 3 and 19 (page 14, line 3-7), "Arney teaches away from the claimed preview pane portion that visually indicates at least one feature of an image that would result, without actually capturing or displaying any resulting image..."

In response, Arney is not relied upon for a preview pane portion visually indicating features of a resulting image, rather it is used for its teaching of a framed portion of the original image (col. 7, lines 34-46; figs. 2D-2E).

D. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Barrett explains that the system has a processor 25 that communicates with a system controller and includes a scanner system control (col. 3, lines 67-68); Barrett discloses a preview window and Arney discloses a preview display screen having a frame-image portion for displaying and providing instructions about the document's orientation.

E. Applicant argues with respect to claims 15 and 31 (last paragraph), "Pavley [does not] teach, disclose or suggest the additional features of the preview pane portion including an image quality profile mimic that visually indicates a currently selected image quality profile to be used when generating the captured image from the original image..."

In response, Barrett teaches an image quality icon (figs. 7, 15) and a preview window (fig. 12); and Pavley discloses cue items for representing media objects on a display screen. Pavley teaches graphical icons for indicating users what media type is associated with a media object displayed in an image area (figs. 4A, 6-8). Pavley's icons provide visual information and graphically indicate a selection.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**3. Claims 1, 2, 4-14, 16-18, 20-30, and 32-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Barrett (US 5,260,805).**

Claims 1 and 17:

Barrett discloses an image capture control system having a controller that provides control parameters; the device is able to capture an image from an original document that provides an original image based on the provided parameters; a display device; and a graphical user interface including a preview pane portion that visually indicates features of a resulting captured image that will result upon generating a captured image without the device capturing the captured image (abstract; col. 8, lines 12-38; fig. 12).

Claims 2, 4, 18, and 20:

See claim 1. Barrett teaches a crop selection control (fig. 7, 152-2). Fig. 11 displays a conflict message 247 advising the user to decrease the % or crop the document (col. 8, lines 41-43); to remove the conflict, the operator decides to crop the document by selecting Crop 250 (fig. 7); this displays a document window 252

having a document image 253. Images can be cropped by actuating icons 258, 260, 262, 264 (fig. 15; col. 9, lines 15-43).

Claims 5, 21, 34, 36, and 38:

See claim 2. Barrett teaches a selection portion usable to define dimensions of a document (fig. 12, window 245). The user can crop the document by selecting crop icons 258, 260, 262, and 264 (col. 8, lines 33-43; col. 9, lines 15-43).

Claims 6, 22, 35, 37, and 39:

See claim 5. Barrett teaches a selection portion that is used to change the dimensions of the crop control (fig. 15; col. 9, lines 36-42).

Claims 7, 12, 13, 23, 28, and 29:

See claim 5. Barrett teaches a scale selection control (system image size 245) that indicates the selected dimensions and a preview pane portion 240 that visually indicates the scaled document image 200. Print window 240 shows a scale-to-portion that defines scale-to parameter factors defining a relationship between dimensions of the captured image and dimensions of a selected portion of the image (fig. 12, 200, 240, 242, 244).

Claims 8 and 24:

See claim 6. Barrett teaches that the dimensions of the crop selection control

are alterable and altering the dimensions of the crop selection control (fig. 15, 259, 261, 263, 265) causes the dimensions of the scale selection control to be altered (fig. 15, 200, 240; col. 9, lines 52-60).

Claims 9, 11, 25, and 27:

See claim 8. Barrett teaches a preview pane portion having a scale selection control that visually indicates scaled dimensions of the captured image (fig. 15, 200, 240, 245).

Claims 10 and 26:

See claims 7 and 9. Barrett teaches that whenever the document is cropped the size of the document also changes (linked) and both changes are displayed (col. 9, lines 52-60; fig. 15, windows 240 and 252).

Claims 14, 16, 30 and 32:

See claim 1. Barrett teaches a document image 200 that shows the size and orientation of the captured image relative to an original image (fig. 12, 200, 240, 242, 244).

Claim 33:

See claim 14. Barrett teaches a preview window having an image quality profile mimic and an image orientation mimic (figs. 12-15). Barrett teaches a

processor 25 that provides enhancements and changes to the image signal such as cropping and scaling (col. 4, lines 10-16).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 3 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Barrett* and *Arney et al* (US 6,298,172 B1).**

**Claims 3 and 19:**

*Barrett* does not teach a framed portion of the original image. However, *Arney* discloses a method for performing image-acquisition with preview of image (abstract; col. 1, lines 10-14; col. 2, lines 13-34). A preview display screen 10 is provided so the user can determine whether the workpiece is positioned in the desired orientation, shifts upon closing the cover 56 (col. 4, lines 46-49, 57-59), for anticipating output related to the selection of control features, for example, brightness, contrast, or focus

control (col. 5, lines 18-21). The preview display screen 10 instructs the user that the workpiece is not properly oriented, and frame-image 14 instructs that the paper's orientation should be changed (col. 7, lines 34-46). In figs. 2D and 2E, the platen-select area P is reduced as compared with the situation reflected by figs. 2A-2C; the frame-image 14 has been reduced to correspond to the smaller platen-select area. The display screen (figs. 2D and 2E) 10 instructs the user that edge portions 65a, 65b, 65c (fig. 2D), and edge portions 66a, 66b, 66c, and 66d (fig. 2E) (shown with cross-hatching) will not be situated within the platen-select area and will not be copied to the article 80 (col. 7, lines 54-66).

Therefore, it would have been obvious to one ordinarily skilled in the art at the time the invention was made to modify Barrett to include Arney's framed portion because the user can see the position of the document, and change the orientation if necessary prior to operating the device.

6. **Claims 15 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett and *Pavley et al* (US 6,317,141 B1).**

Claims 15 and 31:

Barrett teaches an image quality icon (fig. 7; fig. 15) but does not teach a

preview pane portion having an image quality profile mimic that visually indicates a currently selected image quality profile to be used when generating the captured image from the original image. However, Pavley discloses a method for editing media objects in a digital imaging device including icons that are used to indicate a media type (abstract; col. 6, lines 50-55). Pavley teaches a review mode screen having object cells 300 that represent media objects; each object cell includes an image area 304 and an icon/information 306 that displays one or more graphical icons indicating to the user what media type is associated with the media object displayed in the image area (col. 7, lines 38-67; col. 8, lines 1-6; figs. 4A, 6-8). Thus, it would have been obvious to one having ordinary skill in the art at the time of invention to include Pavley's thumbnails in Barrett's preview display screen because they provide information at a glance and graphically indicate a selection.

***Conclusion***

7. The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach a preview window displaying graphical indications of

features and a quality mimic (Barrett et al '036; Rousseau et al) and visual indications of a resulting image (Unbedacht et al; Leone et al; Takahashi et al).

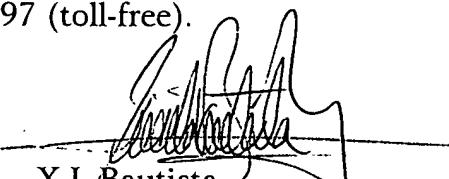
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to X L Bautista whose telephone number is (571) 272-4132. The examiner can normally be reached on Monday-Thursday 8:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (7571) 272-4136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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Primary Examiner  
Art Unit 2179

xlb  
January 21, 2005